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Facsimile Transmission


DATE: October 20, 2009	FILE: (Our Docket No. MJB06834US/GJEL:0003)
TO: USPTO, Mail Stop 16	COMPANY: Fletcher Yoder
FROM: Allen Powell (Helen Tinsley)	EXTENSION: (281) 970-4545 FAX No. (281) 970-4503
FACSIMILE NUMBER: FAX (571) 273-6500	NUMBER OF PAGES TO FOLLOW: 10

URGENT, PLEASE DELIVER IMMEDIATELY

NOTES/COMMENTS:

Subject: Docket No. MJB06834US/GJEL:0003
Serial No. 10/038,569 of Philip Atkin
Request for Refund

Attached herewith is a Request for Refund for the above-referenced file.


W. Allen Powell
Registration No. 56,743

CONFIDENTIALITY NOTE

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powell@fyiplaw.com

MJB06834US
(GJEL:0003)

October 20, 2009

Via Electronic Filing and Facsimile - 571-273-6500

Mail Stop 16

Director of the U.S. Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

Re: U.S. Patent Application No. 10/038,569 of Philip Atkin,
Entitled: "Method of Obtaining an Image"

Dear Sir/Madam:

We hereby request a refund in the amount of \$960.00 to our deposit account number 06-1315; GJEL:0003/FLE due to an improper charge of \$960.00. Attached herewith is a copy of an Entity Status Change Request filed by Applicant on October 20, 2009.

On October 12, 2009, we filed a Request for Continued Examination (RCE), and a request for three-month extension of time, along with associated documents, for the above-referenced patent application. The approved fees included the RCE fee of \$405.00, and a three-month extension fee of \$555.00 bringing the total amount to \$960.00, which was charged to our American Express Credit Card on October 12, 2009. These fees were submitted in anticipation of our request for Small Entity Status being accepted. However, our deposit account was charged an additional \$960.00 on October 19, 2009, for the same case. We believe that the additional \$960.00 should be refunded to our deposit account.

A much appreciated call from a U.S.P.T.O. representative was received by the undersigned on October 16, 2009, regarding the unintentional payment of Large Entity fees for the above-

FLETCHER YODER

PAGE 2

referenced RCE and three-month extension. During the call, the U.S.P.T.O. representative informed the Applicant that the previous request for Small Entity Status could not be accepted, and that the difference between the fees associated with Small Entity Status and Large Entity Status would be charged to the deposit account. The U.S.P.T.O. representative then suggested that a refund request be submitted in accordance with 37 C.F.R. §§ 1.26 and 1.28. Accordingly, Applicant is requesting a refund of \$960.00. Because the Applicant has Small Entity status, the proper Small Entity fees should have been \$405 and \$555.00, respectively. Accordingly, the Applicant respectfully requests that the difference of \$960 between the previously-paid total amount of \$1,920.00 (Large Entity) and the total amount of \$960.00 (Small Entity) for the RCE and three-month extension of time be refunded to Deposit Account No. 06-1315; GJEL:0003/FLE.

In summary, in view of the Applicant's status being changed to a Small Entity Status, please refund the amount of \$960 to Deposit Account No. 06-1315; GJEL:0003/FLE. Further, if the U.S.P.T.O. representative wishes to resolve any other issues by way of a telephone conference, the representative is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Please find the following attached documents: (1) our deposit account statement with a circle around the incorrect charge amounts totaling \$960.00 (Charge on 10/19/09, posting number 10038569, Fee Code 1253 in the amount of \$150.00, and Charge on 10/19/09, posting number 10038569, Fee Code 1860 in the amount of \$810.00), (2) Electronic Patent Application Fee Transmittal indicating that the payment of \$960 was successfully received in RAM on 10/12/09 and charged to my American Express credit card, and (3) a copy of the Entity Status Change Request, Electronic Acknowledgement Receipt, filed 10/20/09.

If you have any questions or comments, please do not hesitate to call.

Sincerely yours,

/W. Allen Powell/

W. Allen Powell

WAP:ht

Attachments

cc: Janet Lamp and Jolee Zhou

1251

ATTACHMENT 1



United States
Patent and
Trademark Office

Return To:
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Page
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Deposit Account Statement

Requested Statement Month: October 2009
Deposit Account Number: 061315
Name: FLETCHER, YODER & VAN SOMEREN
Attention: MICHAEL G FLETCHER
Street Address 1: P O BOX 692289
Street Address 2:
City: HOUSTON
State: TX
Zip: 77269-2289
Country: UNITED STATES

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
10/15	2	11494438	TYHC:0046-4 (P0414S-04)	1806	\$180.00	\$2,245.00
10/15	3	11494385	TYHC:0046-5 (P0414S-05)	1806	\$180.00	\$2,065.00
10/16	10992	E-REPLENISHMENT		9203	-\$435.00	\$2,500.00
10/19	5	10038569	GJEL:0003	1253	\$150.00	\$2,350.00
10/19	7	10038569	GJEL:0003	1801	\$810.00	\$1,540.00
		START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE	
		\$2,425.00	\$1,320.00	\$435.00	\$1,540.00	

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Electronic Acknowledgement Receipt

EFS ID:	6242454
Application Number:	10038569
International Application Number:	
Confirmation Number:	5846
Title of Invention:	Method of obtaining an Image
First Named Inventor/Applicant Name:	Philip Atkin
Correspondence Address:	Michael G. Fletcher Fletcher, Yoder & Van Someren P.O. Box 692289 - Houston TX 77269-2289 US 2819704545 -
Filer:	W. Allen Powell
Filer Authorized By:	
Attorney Docket Number:	GJEL:0003
Receipt Date:	12-OCT-2009
Filing Date:	02-JAN-2002
Time Stamp:	15:39:50
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	\$960

RAM confirmation Number		10109			
Deposit Account					
Authorized User					
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /zip	Pages (if appl.)
1	Request for Continued Examination (RCE)	MJB06834US_GJEL0003_RCE.pdf	767953 <small>AutDocdW/c27845a19068e6b0575094d813430</small>	no	3
Warnings:					
Information:					
2		MJB06834US_GJEL0003_RCE_A mendment_response_FOA_4-1 3-09.pdf	64446 <small>3b04d071e920b17f92a7c1b0e02e4b4505b77a</small>	yes	9
	Multipart Description/PDF Files in zip description				
	Document Description		Start	End	
	Amendment Submitted/Entered with Filing of CPA/RCE		1	1	
	Claims		2	3	
	Applicant Arguments/Remarks Made In an Amendment		4	9	
Warnings:					
Information:					
3	Fee Worksheet (PTO-875)	fee-info.pdf	32275 <small>137f1e9e02b08326d00d3c70903d192073281078</small>	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			864674		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Philip Atkin

Serial No.: 10/038,569

Filed: January 2, 2002

Title: Method of Obtaining An Image

§ Confirmation No. 5846
§
§ Group Art Unit: 2622
§
§ Examiner: Yogesh K. Aggarwal
§
§
§ Atty. Docket:
GJEL:0003/FLE/POW
MJB06834US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF TRANSMISSION OR MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d), or is being transmitted via the Office electronic filing system in accordance with 37 C.F.R. § 1.6(a)(4), or is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:	
October 20, 2009 Date	/W. Allen Powell/ W. Allen Powell

ENTITY STATUS CHANGE REQUEST

By the present paper, Applicant makes an assertion of Small Entity status in accordance with 37 C.F.R. § 1.27(c). Indeed, Applicant is herewith requesting an Entity Status Change from Large Entity to Small Entity for the above-identified patent application. Applicant verifies that they have less than 500 employees and have not licensed the rights in the application to a third party.

Additionally, Applicant presently requests a refund within three months of erroneously paying a Large Entity fee. A separate letter requesting the refund and providing the details of the improper charge is being submitted concurrently. In summary, Applicant paid \$810.00 for an RCE and \$1110.00 for a three-month extension, each of which were filed on October 12, 2009. Because the Applicant has Small Entity status, the proper Small Entity fees should have been \$405 and \$555.00, respectively. Accordingly, the Applicant respectfully requests that the difference of \$960 between the previously-paid total amount of \$1,920.00 (Large Entity) and the total amount of \$960.00 (Small Entity) for the RCE and 3-month extension of time be refunded to Deposit Account No. 06-1315; GJEL:0003/FLE.

If the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

Date: October 20, 2009

/W. Allen Powell/
W. Allen Powell
Reg. No. 56,743
(281) 970-4545
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289

Electronic Acknowledgement Receipt	
EFS ID:	6291341
Application Number:	10038569
International Application Number:	
Confirmation Number:	5846
Title of Invention:	Method of obtaining an image
First Named Inventor/Applicant Name:	Philip Atkin
Correspondence Address:	Michael G. Fletcher Fletcher, Yoder & Van Someren P.O. Box 692289 - Houston TX 77269-2289 US 2819704545 -
Filer:	W. Allen Powell
Filer Authorized By:	
Attorney Docket Number:	GJEL:0003
Receipt Date:	20-OCT-2009
Filing Date:	02-JAN-2002
Time Stamp:	12:16:50
Application Type:	Utility under 35 USC 111(a)

Payment Information:

Submitted with Payment	no
File Listing:	

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (If appl.)
1	Miscellaneous Incoming Letter	MJB06834US_GJEL0003_Request_for_Entity_Status_Change.pdf	18289 PUB06834US_GJEL0003_Request_for_Entity_Status_Change.pdf	no	2
Warnings:					
Information:					
Total Files Size (In bytes):			18289		
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>					

Document code: WFEE

United States Patent and Trademark Office
Sales Receipt for Accounting Date: 10/19/2009

MMCGEE1	SALE	#00000003	Mailroom Dt:	10/12/2009	061315	10038569
		01	FC : 1253	150.00	DA	
		01	FC : 1253	960.00	OP	
		02	FC : 1801	810.00	DA	

Adjustment date: 10/29/2009 SDIRETA1
10/19/2009 MMCGEE1 00000003 061315 10038569
01 FC:1253 150.00 CR -960.00 OP
02 FC:1801 810.00 CR

10/29/2009 SDIRETA1 00000006 10038569

01 FC:2801	405.00	OP
02 FC:2253	555.00	OP